

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA**

In re:)	Bankr. No. 13-10118
)	Chapter 11
)	
NORTHERN BEEF PACKERS)	SCOTT OLSON DIGGING, INC.'S
LIMITED PARTNERSHIP)	OBJECTION TO DEBTOR'S
SSN/ITIN: 26-2530200)	MOTION FOR INTERIM AND FINAL
)	ORDERS AUTHORIZING FINANCING
)	AND APPROVAL OF STIPULATION
Debtor.)	REGARDING SECURED POST-
)	PETITION FINANCING (DOC. 321)

COMES NOW Scott Olson Digging, Inc. (hereafter “Olson Digging”), by and through one of its attorneys, and objects to Debtor’s Motion as follows:

1. Olson Digging has no objection to the post-Petition financing requested on a preliminary or final request, since the security interest requested is subject to prior existing liens and encumbrances. Olson Digging does object to some of the terms of the proposed stipulation.
2. Olson Digging has a first priority position in the real estate, in the form of a mechanic’s lien. The financing provided by White Oak was perfected long after Olson Digging’s mechanic’s lien. Foreclosure of the mechanic’s lien was proceeding in state court stayed only by this Chapter 11 filing.
3. Olson Digging’s original mechanic’s lien is in the amount of \$2,114,975.49 as of November 29, 2007, plus interest at the statutory rate and attorney fees and costs.
4. The proposed stipulation provides for a potential “credit bid” by White Oak. It is assumed the property will be offered for sale free and clear of liens, with liens to attach to the proceeds. Olson Digging’s mechanic’s lien is superior to White Oak’s secured claim, therefore, any credit bid by White Oak should also be subject to Olson Digging’s prior secured position and White Oak should be required to pay or deposit the full amount alleged to be due and to become due to Olson Digging. The proposed stipulation provides for deposit of carve-out fees in the event of a credit bid, but does not provide for payment or at least deposit of the amount owed on the first position prior mechanic’s lien of Olson Digging.
5. Olson Digging also objects to the proposed “objection deadline” to file a Complaint to determine the extent of prior liens. Debtor and White Oak are fully aware of Olson Digging’s priority lien and the amounts alleged to be due. There is no reason under these circumstances for Debtor to agree to an arbitrary deadline as relates to known priority claims.

WHEREFORE, Olson Digging prays that any court order or allowed stipulation acknowledge the priority of Olson Digging’s mechanic’s lien under any circumstance, such

priority being a first lien position, that no short term deadline be imposed to restrict the rights of Olson Digging, and for such other and further relief as appropriate in premises.

Dated this 10th day of September, 2013.

GERRY & KULM ASK, PROF. LLC:

BY: /s/ Clair R. Gerry
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